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November 26, 2014

Ms. Alexandra Stehl
Statewide Trails Program Manager
California Department of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296

Re: California Department of Parks and Recreation Code of Regulations Amended Draft Regulation.

Ms. Stehl,

The Aircraft Owners and Pilots Association (AOPA), the world's largest aviation membership association, opposes the California Department of Parks and Recreation's (CA DPR) proposal to prohibit aircraft overflight at select altitudes within the lateral limits of State Wilderness Areas, Cultural Preserves, and Natural Preserves. The latest proposed amended regulation to Title 14 of the California State Code, states that "all language to regulate airspace over preserves has been eliminated", and yet it remains within the proposal. While CA DPR has removed reference to the previous 500 feet above ground level (AGL) altitude restriction, a 2,000 feet AGL restriction remains. Based on concerns presented below and conflicts with preemptive federal regulations, AOPA again requests the withdrawal of this draft regulation.

FAA's sovereign authority to regulate airspace

While the amended version of the most recent draft regulation is slightly different than what was published in 2013 and again in 2014, CA DPR is still proposing to set minimum altitudes which are inconsistent with Federal Aviation Administration (FAA) regulations. Any attempt to regulate aircraft safety, navigable airspace or aircraft in flight would be contrary to United States Code 49 § 40103- Sovereignty and use of Airspace, which allots the FAA sole authority to regulate aircraft operations in the United States.

AOPA acknowledges that efforts were made by CA DPR to remove language restricting aircraft from flying below 500 feet MSL, but unfortunately the 2,000 feet AGL restriction that remains is still in conflict with the FAA's sole authority to regulate the National Airspace System. In the National Parks Air Tour Management Act, Congress recognized the FAA has sole authority to control airspace over the United States. The Act also recognizes the FAA has authority to preserve and protect the environment by preventing the adverse effects of aircraft overflights.

A pilot operating within navigable airspace in the national airspace system and in full compliance with all Federal Aviation Regulations (FAR) could be inadvertently in conflict with CA DPR regulations. Pilots have a reasonable expectation to be familiar with applicable FAR and the operating parameters established therein. Allowing multiple agencies to control national airspace would create a patchwork quilt of overlapping and potentially contradictory regulations from Federal, State, and local municipalities, ultimately creating insurmountable barriers for pilots.

Pilots already “fly friendly” over noise sensitive areas

General aviation pilots already voluntarily follow guidance contained in the FAA’s Advisory Circular (AC) 91-36D, Visual Flight Rules (VFR) Flights near Noise Sensitive Areas. This AC provides guidance to pilots for avoiding flight operations below 2,000 feet in noise sensitive areas such as wildlife refuges and nature preserves. AOPA remains ready to assist CA DPR in performing additional outreach and education to the pilot community in California on the location of noise-sensitive areas and to “fly friendly” in accordance with the recommendations contained in the FAA’s AC.

Summary

The amended draft regulation usurps preemptive Federal Regulations and attempts to modify restrictions in airspace that currently are not considered “restricted,” assuming the FAA’s sole authority to regulate airspace. The FAA, through their Flight Safety District Office’s (FSDOs), are fully equipped to handle such issues and assist local governments in finding solutions that align with federal regulations, while retaining the appropriate level of public safety expected in any given area. AOPA would urge CA DPR to repeal the amendment and contact their local FSDO to communicate their concern. AOPA strongly encourages the CA DPR to work collaboratively with the FAA and stakeholder groups to further educate pilots on overflights of sensitive areas.

Sincerely,



Melissa McCaffrey
Senior Government Analyst
Air Traffic Services